

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN MARITIME OFFICERS

DISTRICT 2 MEBA, AFL-CIO,

Plaintiff,

v.

AMERICAN PRESIDENT LINES, LTD., et
al.,

Defendants.

Case No. 16-cv-00861-EMC

**ORDER DENYING PLAINTIFF'S EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

Docket No. 5

Plaintiff has filed an application for a temporary restraining order. A hearing was held on Plaintiff's application on February 29, 2016. For the reasons stated on the record, the Court **DENIES** the application for relief. As the Court noted at the hearing:

1. Relief is not appropriate as Plaintiff has not joined the competing unions in this litigation as an indispensable party. *See* Fed. R. Civ. P. 19(a)(1)(B).

2. Plaintiff has not adequately established irreparable injury in the absence of an injunction. If Plaintiff were to ultimately prevail on the merits, its members could still obtain, *e.g.*, reinstatement and back pay.

3. Plaintiff has not established a likelihood of success on the merits or even serious questions going to the merits. On its face, the MOU did not guarantee that the agreement would last for any specified period of time. Furthermore, on its face, the MOU did not prevent Defendants from unilaterally terminating the agreement. In addition, Defendants were not statutorily prohibited from unilaterally terminating the agreement as the NLRA excludes supervisors from the definition of employee. *See* 29 U.S.C. § 152(3).

3. Even if Plaintiff could show serious questions going to the merits, Plaintiff has not


1 shown that the balance of hardships tips sharply in its favor or that the public interest weighs in
2 favor of an injunction. The interests of the competing unions' members must be given equal
3 consideration.

4 Accordingly, Plaintiff's request for relief is denied.

5 This order disposes of Docket No. 5.

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7 **IT IS SO ORDERED.**

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9 Dated: February 29, 2016

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11 EDWARD M. CHEN
12 United States District Judge
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